IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE ELEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 611 of 2005

Between:

Nallaganti Durgarao, s/o Abbulu,
r/o Devarpalli Village, Devarpalli Mandal, West Godavari District.

..... PETITIONER

AND

1 The Prohibition & Excise Sub-Inspector, Kovvur, West Godavari

District.
2 The Superintendent of Prohibition & Excise, Eluru, West Godavari

District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction, particularly one in the nature of writ of mandamus, declaring the action of the 1st respondent in seizing the Auto bearing No.AP.5U7645 of the petitioner, his driving licence and documents relating to the said Auto on 26-12-2004 under the Mediators' report dated 26-12-2004, on the Yernagudem to Sangaigudem Road, West Godavari District, as illegal, arbitrary and unwarranted, and consequently direct the respondents to immediately release the same to the petitioner, and pass such other order or orders.

Counsel for the Petitioner:S.SURENDRA KUMAR

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court at the stage of admission made the following ORDER:

The petitioner is the owner-cum-driver of an auto rickshaw bearing No. AP 5U 7645. It was seized on 26.12.2004 by the Sub-Inspector of Prohibition & Excise, Kovvur, West Godavari district, the first respondent, on the ground that it was used in transporting the illicit liquor. A panchnama was prepared evidencing the seizure of the vehicle, the RC book as well as the driving licence of the petitioner. The petitioner seeks release of the vehicle.

When the writ petition came up for admission on 25.01.2005, it was adjourned, enabling the petitioner to file an application before the Deputy Commissioner of Excise, where, the proceedings are said to have been initiated. It is stated that the petitioner submitted a representation in the form of an appeal before the Deputy Commissioner of Excise, Kakinada on 31.01.2005 and so far no orders have been passed thereon.

Heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition & Excise.

The truth or otherwise of the allegations against the petitioner as to the use of the vehicle in transporting the illicit liquor needs to be considered and examined in the proceedings that are now pending before the Deputy Commissioner of Excise, Kakinada. The petitioner states that he is eking out his livelihood by driving the auto rickshaw. The continued seizure of the vehicle does not advance the purpose of the Department or that of the petitioner. There is threat

to its safety and condition also.

For the foregoing reasons, the writ petition is disposed of directing that the auto rickshaw bearing No.AP 5U 7645 shall be released in favour of the petitioner, on his furnishing bank guarantee or submitting an FDR for a sum of Rs.10,000/- (Rupees Ten thousand only). There shall be no order as to costs.

11.02.2005

ksld

To

1 The Prohibition & Excise Sub-Inspector, Kovvur, West Godavari District.

2 The Superintendent of Prohibition & Excise, Eluru, West Godavari District.

3 Two CCs. to the G.P. for Prohibition & Excise, High Court of A.P., Hyderabad (OUT).

4 Two CD copies.